

REMARKS

Claims 1-12, 14, 16, 18, 20, and 22-41 are pending in this application. Claim 1 has been amended. Claims 13, 15, 17, 19, and 21 have been cancelled.

In the Office Action, claim 1 was objected to because of a formal error. Claim 1 has been amended as suggested by the Examiner. Applicant believes this amendment is fully responsive to the Examiner's concerns.

Claims 1-41 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,402,699 (Kodama). This rejection is respectfully traversed. Applicant hereby requests reconsideration and allowance of the claims in view of the following arguments.

Regarding the anticipation rejection of independent claim 1 based on Kodama, this claim has been amended to recite that the physical condition data acquiring means acquires a menstruation start date, and that the estimation accuracy determination means determines the accuracy of estimations made by the appearance time estimation means based on a number of times the menstruation start date has been input. These amendments are supported, for example, in original claims 13, 15, 17, 19, and 21 (which have consequently been cancelled), at page 17, lines 4-22 and page 31, lines 15-18 of the present application. This feature of amended claim 1 advantageously informs the user of the probable accuracy of the estimations of the apparatus.

The Kodama reference does not disclose or even suggest the recited estimation accuracy determination means of amended claim 1. In the Office Action, it is contended that Kodama inherently determines the accuracy of its estimations by comparing present data and historical data. Even assuming, *arguendo*, the Office Action's contentions regarding the inherency of this function are valid, Kodama does not disclose or suggest determining accuracy based on *a number of times a menstruation start date has been input*, as required by amended claim 1.

Applicant notes that the Office Action analogizes the claimed estimation accuracy determination means to Kodama's "decision making unit" (see, Kodama at col. 2:56-60). However, Kodama's decision making unit makes a decision based only on the female physical conditions (e.g., bioelectrical impedance), and thus corresponds only to the claimed invention's appearance time estimation means.

Thus, Kodama does not anticipate amended independent claim 1, because it does not disclose each and every element of that claim. In particular, Kodama does not disclose the recited estimation accuracy determination means, which determines the accuracy of estimations made by the appearance time estimation means based on a number of times a menstruation start date has been input. Moreover, it would not have been obvious to add this feature to the device of Kodama.

Consequently, amended independent claim 1 is patentable, as are claims 2-12, 14, 16, 18, 20, and 22-41, which depend from claim 1.

Further regarding dependent claim 3, Kodama does not disclose or suggest displaying the probability that the physical conditions appearing in a monthly cycle actually appear at the estimated times of appearance, as required by this claim. Kodama displays the appearance of the physical conditions, but not the *probability* of the conditions actually appearing as Kodama predicts. The Examiner contends, at paragraph 8 of the Office Action, that this "is inherent in the comparison of present data with historical record". However, this contention does not make logical sense. It does not follow that a comparison of present and historical data necessarily results in *display* of a probability, as claimed. Indeed, there is no teaching or suggestion in Kodama of *displaying* any probability of the accuracy of its device's decisions.

Consequently, claim 3 is further and separately patentable.

Application No.: 10/752,706

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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